

§ 24.23

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agency of the United States, any fee provided for under this section shall be treated as if such fee is a Customs duty.

[T.D. 93–85, 58 FR 54282, Oct. 21, 1993, as amended by T.D. 94–1, 58 FR 69470, Dec. 30, 1993; 59 FR 8853, Feb. 24, 1994; T.D. 98–56, 63 FR 32944, June 16, 1998]

§ 24.23 Fees for processing merchandise.

(a) *Definitions.* The following definitions apply for the purposes of this section:

(1) *Centralized hub facility.* A *centralized hub facility* is a separate, unique, single purpose facility normally operating outside of Customs operating hours approved by the port director for entry filing, examination, and release of express consignment shipments, as provided for in part 128 of this chapter on July 30, 1990.

(2) *Entered or released.* Merchandise is *entered or released* if the merchandise is:

(i) Released under a special permit for immediate delivery under 19 U.S.C. 1448(b);

(ii) Entered or released from Customs custody under 19 U.S.C. 1484(a)(1)(A); or

(iii) Withdrawn from warehouse for consumption.

(3) *Express consignment carrier facility.* An *express consignment carrier facility* is a separate or shared specialized facility approved by the port director solely for the examination and release of express consignment shipments, as provided for in part 128 of this chapter on July 30, 1990.

(4) *Manual entry or release.* Any reference to a *manual* formal or informal entry or release shall not include:

(i) Any formal or informal entry or release filed by an importer or broker who is operational for cargo release through the Automated Broker Interface (ABI) of the Customs Automated Commercial System (ACS) at any port within the United States;

(ii) Any formal or informal entry or release filed at a port where cargo selectivity is not fully implemented if filed by an importer or broker who is operational for ABI entry summary; or

(iii) Any informal entry or any Line Release filed at a port where cargo selectivity is fully implemented if filed

by an importer or broker who is operational for ABI entry summary.

(5) *Small airport or other facility.* A *small airport or other facility* is any airport or other facility which has been designated as a user fee facility under 19 U.S.C. 58b and at which more than 25,000 informal entries were processed during the preceding fiscal year.

(b) *Fees*—(1) *Formal entry or release*—
(i) *Ad valorem fee*—(A) *General.* Except as provided in paragraph (c) of this section, merchandise that is formally entered or released is subject to the payment to Customs of an ad valorem fee of 0.21 percent. The fee shall be due and payable to Customs by the importer of record of the merchandise at the time of presentation of the entry summary and shall be based on the value of the merchandise as determined under 19 U.S.C. 1401a.

(B) *Maximum and minimum fees.* Subject to the provisions of paragraphs (b)(1)(ii) and (d) of this section relating to the surcharge and to aggregation of the ad valorem fee respectively, the ad valorem fee charged under paragraph (b)(1)(i)(A) of this section shall not exceed \$485 and shall not be less than \$25.

(ii) *Surcharge for manual entry or release.* In the case of any formal manual entry or release of merchandise, a surcharge of \$3 shall be assessed and shall be in addition to any ad valorem fee charged under paragraphs (b)(1)(i)(A) and (B) of this section.

(2) *Informal entry or release.* (i) Except as provided in paragraphs (b)(2)(ii) and (c) of this section, merchandise that is informally entered or released is subject to the payment to Customs of a fee of:

(A) \$2 if the entry or release is automated and not prepared by Customs personnel;

(B) \$6 if the entry or release is manual and not prepared by Customs personnel; or

(C) \$9 if the entry or release, whether automated or manual, is prepared by Customs personnel.

(ii) With respect to the processing of merchandise that is informally entered or released at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following payments shall be

made in lieu of the specific fees provided for in paragraph (b)(2)(i) of this section:

(A) In the case of a centralized hub facility or small airport or other facility, payment by the facility in an amount equal to the reimbursement (including overtime) which the facility is required to make during the fiscal year under § 24.17 of this chapter; and

(B) In the case of an express consignment carrier facility, payment by the facility in an amount equal to the cost (including overtime) of the Customs inspectional services provided at the facility during the fiscal year for which Customs is reimbursed under § 24.17 of this chapter.

(c) *Exemptions and limitations.* (1) The ad valorem fee, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply to:

(i) Except as provided in paragraph (c)(2) of this section, articles provided for in chapter 98, Harmonized Tariff Schedule of the United States (HTSUS; 19 U.S.C. 1202);

(ii) Products of insular possessions of the U.S. (General Note 3(a)(iv), HTSUS);

(iii) Products of beneficiary countries under the Caribbean Basin Economic Recovery Act (General Note 7, HTSUS);

(iv) Products of least-developed beneficiary developing countries (General Note 4(b)(i), HTSUS); and

(v) Merchandise described in General Note 19, HTSUS, merchandise released under 19 U.S.C. 1321, and merchandise imported by mail.

(2) In the case of any article provided for in subheading 9802.00.60 or 9802.00.80, HTSUS:

(i) The surcharge and specific fees provided for under paragraphs (b)(1)(ii) and (b)(2)(i) of this section shall remain applicable; and

(ii) The ad valorem fee provided for under paragraph (b)(1)(i) of this section shall be assessed only on that portion of the cost or value of the article upon which duty is assessed under subheadings 9802.00.60 and 9802.00.80.

(3) The ad valorem, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply to goods originating in Canada or Mexico within the meaning

of General Note 12, HTSUS (see also 19 U.S.C. 3332), where such goods qualify to be marked, respectively, as goods of Canada or Mexico pursuant to Annex 311 of the North American Free Trade Agreement and without regard to whether the goods are marked. For qualifying goods originating in Mexico, the exemption applies to goods entered or released (as defined in this section) after June 29, 1999. Where originating goods as described above are entered or released with other goods that are not originating goods, the ad valorem, surcharge, and specific fees shall apply only to those goods which are not originating goods.

(4) In the case of agricultural products of the U.S. that are processed and packed in a foreign trade zone, the ad valorem fee provided for under paragraph (b)(1)(i) of this section shall be applied only to the value of any material used to make the container for such merchandise, but only if that merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.

(5) The ad valorem fee, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply to products of Israel that are entered, or withdrawn from warehouse for consumption, on or after September 16, 1998 (the effective date of a determination published in the FEDERAL REGISTER on September 1, 1998, under section 112 of the Customs and Trade Act of 1990).

(d) *Aggregation of ad valorem fee.* (1) Notwithstanding any other provision of this section, in the case of entries of merchandise made under any temporary monthly entry program established by Customs before July 1, 1989, for the purpose of testing entry processing improvements, the ad valorem fee charged under paragraph (b)(1)(i) of this section for each day's importations at an individual port shall be the lesser of the following, provided that those importations involve the same importer and exporter:

(i) \$400; or

(ii) The amount determined by applying the ad valorem rate under paragraph (b)(1)(i)(A) of this section to the total value of such daily importations.

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(2) The fees as determined under paragraph (d)(1) of this section shall be paid to Customs at the time of presentation of the monthly entry summary. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

(e) *Treatment of fees as Customs duty—*

(1) *Administration and enforcement.* Unless otherwise specifically provided in this chapter, all administrative and enforcement provisions under the Customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee provided for under this section, and with respect to any person liable for the payment of such fee, as if such fee is a Customs duty. For purposes of this paragraph, any penalty assessable in relation to an amount of Customs duty, whether or not any such duty is in fact due and payable, shall be assessed in the same manner with respect to any fee required to be paid under this section.

(2) *Jurisdiction.* For purposes of determining the jurisdiction of any court or agency of the United States, any fee provided for under this section shall be

treated as if such fee is a Customs duty.

[T.D. 91–33, 56 FR 15039, Apr. 15, 1991; 56 FR 25721, June 5, 1991, as amended by T.D. 94–1, 58 FR 69470, Dec. 30, 1993; T.D. 94–32, 59 FR 15046, Mar. 31, 1994; T.D. 95–29, 60 FR 18348, Apr. 11, 1995; T.D. 97–82, 62 FR 51770, Oct. 3, 1997; T.D. 99–1, 63 FR 71372, Dec. 28, 1998; T.D. 99–61, 64 FR 42031, Aug. 3, 1999; T.D. 00–81, 65 FR 68886, Nov. 15, 2000; T.D. 02–14, 67 FR 15098, Mar. 29, 2002]

§ 24.24 Harbor maintenance fee.

(a) *Fee.* Commercial cargo loaded on or unloaded from a commercial vessel is subject to a port use fee of 0.125 percent (.00125) of its value if the loading or unloading occurs at a port within the definition of this section, unless exempt under paragraph (c) of this section or one of the special rules in paragraph (d) of this section is applicable.

(b) *Definitions.* For the purpose of this section:

(1) *Port* means any channel or harbor (or component thereof) in the customs territory of the United States which is not an inland waterway and is open to public navigation and at which Federal funds have been used since 1977 for construction, maintenance or operation. It does not include channels or harbors deauthorized by Federal law before 1985. A complete list of the ports subject to the harbor maintenance fee is set forth below:

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE

[Section 1402 of Pub. L. 99–662, as amended]

Port code, port name and state	Port descriptions and notations
Alabama	
1901—Mobile	
Alaska	
3126—Anchorage	Includes Seldovia Harbor, and Homer. Movements between these points are intraport.
3106—Dalton Cache	Includes Haines Harbor.
3101—Juneau	Includes only Hoonah Harbor. Fee does not apply to Juneau Harbor.
3102—Ketchikan	Includes Metlakatla Harbor. Fee does not apply to Wades Cove.
3127—Kodiak	
3112—Petersburg	Includes Wrangell Narrows.
3125—Sand Point	Includes Humboldt, King Cove and Iliuliuk Harbor. Fee does not apply to Dutch Harbor.
3115—Sitka	Includes Sergius-Whitstone Narrows.
—St. Paul	
California	
2802—Eureka	Includes Crescent City.
Los Angeles/Long Beach Ports	Includes Ventura, Port Hueneme, Channel Islands Harbor, Santa Barbara, Marina Del Ray, Los Angeles and Long Beach. Movements between these points are intraport.
2709—Long Beach Harbor	
2704—Los Angeles	
2713—Port Hueneme	
2712—Ventura	
2805—Monterrey	
2719—Moro Bay	Includes only Moro Bay.
2501—San Diego	Includes San Diego River and Mission Bay, and Oceanside Harbor.